

SECOND DIVISION

[G.R. NO. 139596, January 24, 2006]

**CHARLES CU-UNJIENG, PETITIONER, VS. HON. COURT OF
APPEALS AND UNION BANK OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

By this petition for review on certiorari, petitioner Charles Cu-Unjieng seeks the reversal of the following issuances of the Court of Appeals (CA) in CA-G.R. CV No. 8177-B-UDK, entitled *Charles Cu-Unjieng, plaintiff-appellant vs. Union Bank of the Philippines, et al., defendants-appellees*, to wit:

1. **Resolution^[1] dated May 10, 1999**, dismissing, for non-payment of docket and other lawful fees, petitioner's appeal from an earlier decision of the Regional Trial Court at Malolos, Bulacan which dismissed his complaint for specific performance and damages against respondent Union Bank of the Philippines and others; and
2. **Resolution^[2] dated July 30, 1999** which denied petitioner's Motion for Reconsideration and ordered expunged the appeal brief thereto attached.

The facts:

Respondent Union Bank of the Philippines (UBP) is the owner of a parcel of agricultural land with an area of 218,769 square meters situated in Barangay Sta. Maria, San Miguel, Bulacan and registered in its name under Transfer Certificate of Title (TCT) No. TC-1062 of the Registry of Deeds of Bulacan.

Sometime in January 1994, UBP caused the posting on the bulletin boards of its branch offices of a three-page list of acquired realty assets available for sale to interested parties. Included in said list was the aforementioned parcel of land, offered to be sold for P2,200,000.00.

Petitioner, through a letter^[3] dated April 11, 1994 and addressed to Joselito P. Valera, manager of UBP's Acquired Assets Department, offered to buy the subject property for a lesser amount of P2,078,305.50, payable as follows: 50% as down payment with the balance to be paid in equal monthly installments over a period of two (2) years. Petitioner explained that his offer for an amount lesser than UBP's asking price was on account of five (5) tenants occupying the subject land who were allegedly demanding P500,000.00 to voluntarily vacate the same.

As proof of his interest to buy the property, petitioner tendered PCIB Check No. 565827 for P103,915.27, purportedly representing 10% of the 50% down payment

as earnest money or deposit. UBP acknowledged receipt thereof by way of Union Bank Receipt No. 495081 dated April 11, 1994.

On August 30, 1994, petitioner wrote a follow-up letter to UBP inquiring on the status of his offer to buy the subject premises.^[4]

Via a reply-letter dated August 31, 1994, the manager of UBP's Acquired Assets Department advised petitioner that his offer to purchase is yet to be acted upon because the bank was still awaiting the opinion of its legal division regarding the sale of "CARPable" agricultural assets acquired by the bank.^[5]

As it turned out, UBP rejected petitioner's offer as shown by the fact that in another letter^[6] dated December 19, 1994, the bank informed petitioner that his offer could not be favorably acted upon on account of the legal division's opinion that sales of lands covered by the Comprehensive Agrarian Reform Law without prior Department of Agrarian Reform (DAR) approval are considered null and void. Accordingly, UBP advised petitioner to pick up the refund of his P103,915.27 "earnest money" at the bank's disbursing unit.

Unable to accept UBP's rejection of his offer, petitioner, through counsel, made a formal demand^[7] for the bank to comply with its obligation to transfer and deliver the title of the subject property to him by executing the proper deed of conveyance, under the terms and conditions set forth in his April 11, 1994 offer.

Responding thereto, UBP, thru its counsel, Atty. Luzano, in a letter^[8] dated July 19, 1995, reiterated the bank's rejection of petitioner's offer as "the land being **carpable** could only be disposed of by the bank either thru Voluntary Offer to Sell (VOS) or compulsory acquisition, the procedure of which is outlined in Sec. 16" of Republic Act (RA) No. 6657.

It was against the foregoing backdrop of events that, on February 6, 1997, in the Regional Trial Court (RTC) at Malolos, Bulacan, petitioner filed his complaint^[9] in this case for *Specific Performance and Damages against* UBP, impleading as co-defendant in the suit the Register of Deeds of Bulacan. Docketed as Civil Case No. 80-M-97 and raffled to Branch 9 of the court, the complaint principally sought UBP's compliance with an alleged perfected contract of sale between it and petitioner relative to the parcel of land in question. More specifically, the complaint prays for a judgment ordering UBP to:

- a) accept payments from the plaintiff [petitioner] for the sale of the Property in accordance with the terms and conditions of the letter dated 11 April 1994;
- b) execute a Deed of Absolute Sale over the Property covered by TCT No. TC 1062 of the Registry of Deeds of the Province of Bulacan upon the plaintiff's full payment of the amount of *Two Million Seventy Eight Thousand Three Hundred Five & 50/100 (P2,078,305.50)*, failing in which, the deputy sheriff should be ordered to execute such deed and the Registry of Deeds to cancel the title of the Bank and issue a new one in favor of the plaintiff;

c) pay plaintiff the sum of *Five Hundred Thousand Pesos (P500,000.00)* as moral damages;

d) pay plaintiff the sum of *Five Hundred Thousand Pesos (P500,000.00)* as exemplary damages;

e) pay plaintiff the sum of *Four Hundred Thousand Pesos (P400,000.00)* as attorney's fees; and

f) pay the costs of the suit.

Other reliefs, just and equitable under the premises, are likewise respectfully prayed for.

After due proceedings, the trial court, in a decision dated September 1, 1998,^[10] upon a finding that no perfected contract of sale transpired between the parties, dismissed petitioner's complaint for lack of sufficient cause of action, thus:

WHEREFORE, on the basis of the evidence adduced and the laws/jurisprudence applicable thereon, judgment is hereby rendered DISMISSING the complaint in the above entitled case for want of sufficient cause of action as well as the defendant's counterclaim for damages and attorney's fees for lack of proof to warrant the same.

However, defendant Union Bank of the Philippines is ordered to reimburse plaintiff Charles Cu-Unjieng the amount of P103,915.27 representing the face value of PCIBank Check No. 565827 tendered by the latter to the former as purported "earnest money", with interest thereon at the prevailing rates of interest periodically bestowed by UBP to its savings depositors from April 11, 1994, through the succeeding years, and until the full amount thereof shall have been delivered to the plaintiff.

No pronouncement as to costs.

SO ORDERED.

With his motion for reconsideration having been denied, petitioner filed with the trial court a *Notice of Appeal*^[11] therein making known that he is taking an appeal from the adverse decision to the CA. Acting thereon, the trial court issued an Order^[12] directing the elevation of the records of the case to the CA, whereat petitioner's appeal was docketed as *CA-G.R. CV No. 8177-B-UDK*.

As things would have it, in the herein first assailed **Resolution dated May 10, 1999**, the CA dismissed petitioner's appeal for nonpayment of the required docket and other lawful appeal fees, to wit:

For failure of the appellant [petitioner] to pay the docket and other lawful fees (Sec. 4, Rule 41, 1997 Rules of Civil Procedure), the Court Resolved to DISMISS the appeal pursuant to Sec. 1(c), Rule 50 of the same Rule.

SO ORDERED.^[13]